



August 4, 2017

Dr. Melody Schopp, Secretary
Department of Education
800 Governors Drive
Pierre, South Dakota 57501

Dear Secretary Schopp:

The Government Operations and Audit Committee has scheduled a meeting for August 29, 2017, in room 362, in the State Capitol Building, to review various issues involving state government.

The Committee requests that you provide written answers to the following questions from Committee members by August 21, 2017 and be present on August 29, 2017 to discuss your answers with the Committee:

1. Were invoices paid that did not have required documentation to support payment from the start of drawing down on the grant dollars?
2. How did the South Dakota Department of Education (Department) conclude that there was no misappropriation of grant dollars?
3. Were any State dollars part of the dollars that flowed from the State to Mid Central Educational Cooperative?
4. Describe in detail the process from receipt of request of payment to payment to Mid Central Educational Cooperative for grant approved expenses.
5. Did the Department have knowledge of the subsidiaries that Mid Central Educational Cooperative was working with?
6. If yes, were any questions raised about prior relationships with the Department and these individuals in the subsidiaries?
7. Who contacted the author of the grant to write the grant?
8. What Department or agency worked with the author on writing the grant application?
9. Would you provide us a resume of your work history with specific places of employment and supervisors up to the time of your appointment as Secretary?
10. What had been your exposure to the GEAR-UP program prior to your appointment as Department of Education Secretary?
11. Did you know at any time previous to September 16 of 2015 that ANYONE involved in GEAR-UP was employed by a state or local educational institution and also receiving compensation from any other entity involved in a program funded with federal education grants administered by your department? If yes, who and what program?
12. In your SEPT 21, 2015, letter to Mid Central, cancelling the GEAR UP grant, you list several reasons for non-renewal and termination. Among your reasons are "(5) Conflict of interest and failure to disclose related parties...." What specific "Conflict of interest and failure to disclose related parties" did you, the governor, his staff feel were grounds for termination of the Mid

Central Educational Cooperative grant partner in 2015? (provide all memos and emails in support of your answers)

13. When did you first become aware that Stacy Phelps was simultaneously a member of the South Dakota Board of Education and the Program Director for the GEAR UP grant at Mid Central Educational Cooperative?
14. When did you first become aware that Stacy Phelps was simultaneously the Program Director for the GEAR UP grant at Mid Central and the Chief Executive Officer for the American Indian institute for Innovation (AIII)?
15. When did you first become aware that Stacy Phelps employed 10 family members at his GEAR UP summer camp, paying them, according to the Eide Bailly audit, over \$386,000 during a two-year period?
16. When did you first become aware that an 11th Phelps family member [Alice Phelps] was on AIII's payroll for \$90,000 per year as the Principal of a school run by AIII, for which she was also an Administrative Coordinator?
17. When did you first become aware that Stacy Phelps was simultaneously the Chief Executive Officer for AIII and the President of Black Rock Consulting, one of seven corporations created by Scott Westerhuis, in which Scott Westerhuis was the Vice-President and Nicole Westerhuis was the Secretary?
18. When did you first become aware that Scott Westerhuis was simultaneously the Business Manager of Mid Central and the Chief Financial Officer of AIII?
19. When did you first become aware that Scott Westerhuis was simultaneously the Business Manager of Mid Central and the creator and registered agent of Oceti Sakowin Education Consortium, an organization whose Business Manager was Nicole Westerhuis, and, which, according to the Eide Bailly audit, received at least \$171,000 in GEAR UP funds?
20. When did you first become aware that Nicole Westerhuis was simultaneously the Business Manager of Oceti Sakowin and the Assistant Business Manager of Mid Central?
21. When did you first become aware that Kelly Duncan was simultaneously a member of the South Dakota Board of Education and was being paid by Mid Central to manage the federally funded College Access grant, a purpose of which is to increase the number of low-income students who are prepared to enter and succeed in post-secondary education?
22. When did you first become aware that Kelly Duncan was simultaneously a member of the South Dakota Board of Education, being paid or having been paid by Mid Central to manage the College Access grant, and being paid by the University of South Dakota to be an "independent evaluator" of the GEAR UP grant at Mid Central?
23. When did you first become aware the Julie Mathiesen was simultaneously a member of the South Dakota Board of Education and serving in leadership roles in both Technology and Innovation in Education (TIE) and Three Rivers Special Services Cooperative in Philip, SD?
24. When did you first become aware that Julie Mathiesen, while serving on the South Dakota Board of Education, was also, in her leadership roles at TIE and Three Rivers, signing about \$2 million of contracts with the SD Department of Education?
25. When did your daughter become employed with Julie Mathiesen? Did you report her involvement in these contracts to the governor? His Chief of staff? When? (provide memos and emails in support of your answers)
26. When did you first become aware that Don Kirkegaard was simultaneously a member of the South Dakota Board of Education and a partner, with former South Dakota Education Secretaries Rick Melmer and Tom Oster, in Dakota Education Consulting, whose clients included Kirkegaard's former school district of Britton-Hecla, his current school district of Meade, and the South Dakota Department of Education itself?

27. When did you first become aware that Rick Melmer was simultaneously on Mid Central's Advisory Board, was being compensated as a consultant of Mid Central, and was on the South Dakota Department of Education's Oversight Board for Native Education, a board whose members you appointed?
28. When did you first become aware that former Education Secretary Melmer and former South Dakota Office of Indian Education Director Keith Moore were being paid by Mid Central (in part, with GEAR UP funds), but they neglected for months to submit effort logs showing what they had been working on?
29. When did you first become aware that Mid Central was paying Melmer \$18,604 per month to be a Senior Advisor, a contract at least partially funded by GEAR UP, that also gave Melmer 12 days of vacation leave, 15 days of sick leave, two days of personal leave, state rates for mileage, and health and dental insurance? What advice did Melmer provide the Lead Gear Up Grant Partner, Department of Education, as a matter of his contract? Did the Department of Education approve of his contract? Monies expended to pay his salary?
30. When did you first become aware that the Inspector General of the Bureau of Indian Affairs revealed that Melmer and Moore, while Moore was the Director of the Bureau of Indian Education in Washington, DC, attempted to steer a federal contract to friends in Pierre, SD, with the Inspector General concluding that Moore and his chief of staff "appear to have acted in violation of Federal ethics regulations governing impartiality...and the use of public office for private gain."? Did you report these conflicts of interest to the governor or his chief of staff? When? What were their responses to Melmer's & Moore's continued involvement in GEAR UP after their ethics violation was reported to your office? Who approved their continued involvement after that report? (provide memos and emails in support of your answers)
31. You told the GOAC on July 24, 2017 that your office offered the Department of Education contract independent evaluator position to PerGroup and they backed out of handling the contract position. Who all recommended, offered, and was involved in the approval of that contract to Personal Group (PERGROUP)?
32. When you made this statement to the GOAC, mischaracterizing their withdrawal from the contract as voluntary, you were in fact aware they were in fact precluded from the contract due to the ethics violations identified by the BIA, correct?
33. When did you first become aware that consultant Brinda Kuhn prepared the initial SD 2005 GEAR UP grant application? Is it true she simply whited out "Maine," changed it to "South Dakota?" How much was she paid for "writing" the grant? When did you approve her managing the GEAR UP grant for Mid Central, getting paid by Mid Central for giving airplane rides to GEAR UP campers, and being the state's contractual independent evaluator for the GEAR UP grant? Was this part of the "conflicts of interests" you cited to cancel the program with Mid Central?
34. In January 2011, besides yourself and all of the Department of Education "management team" who were cc'd on her email to you, did you share LuAnn Werdell's reports of illegalities in those emails with Governor Daugaard? His chief of staff? Any law enforcement officials? (provide all memos and emails in support of your answers) Why did you deny the existence of this and other notorious emails she submitted to yourself and others?
35. Who were all the persons that recommended and decided LuAnn Werdell's employment was not needed (to be terminated) in the Daugaard administration? Did her termination occur after she reported the illegalities within GEAR UP, etc.? (provide all memos and emails in support of your answers)
36. Did you, or anyone you know of, instruct LuAnn not to speak of what she knew about the improprieties she witnessed or complained about in the GEAR Up and other grants administered by Mid Central and/or the Department of Education, after she was fired? (provide all memos and emails in support of your answers)

37. Besides LuAnn Werdell, and Roger Campbell, what other persons are you aware of that expressed concerns of improprieties or wrong doings of grants handled by Mid Central? AIII? Or any other entities managed by Stacy Phelps? Keith Moore? Rick Melmer? (provide all memos and emails in support of your answers)
38. When and who did Roger Campbell report concerns or reports of misconduct, illegalities, improprieties regarding the GEAR UP and/or other grants or programs to that you are aware of. (provide all memos and emails in support of your answers)
39. The day the Westerhuis family was found dead you were reported to be extremely distraught and were reportedly consoled by several people in your office to include Margo Heinert. What did you mean when you reportedly told Margo Heinert that the deaths of the family were your fault because you didn't take action on LuAnn Werdell's (others) complaints of misconduct?
40. Being in receipt of two director's complaints of malfeasance by persons involved in the GEAR UP since at least 2011, and knowing about these numerous conflicts of interest and federal ethics violations for so many years, why did you continue to approve the contracts for GEAR UP and other grants with Mid Central?
41. When and how did you advise Governor Daugaard and/or his chief of staff of the circumstances above? (provide memos and emails in support of your answers) What were their responses to the information? (provide all memos and emails in support of your answers)
42. When and how did you advise the Attorney General, DCI, or any law enforcement, of any reports of fraud, misappropriation, or suspected criminal activity reported to you by any person? (provide all memos and emails in support of your answers)
43. You stated your staff worked with Mid Central on corrective actions over the years (Jan 24 GOAC meeting timestamp approx. 6:34:00). When, how, and with what specific members of the Mid Central board(s) did you and the Department of Education staff discuss these findings and corrective actions with or coordinate training of their employees, which you claim your office had extensive interactions with "them?" Why did you and your office "assume" the "Board was following through" on the corrective action plans? Why did your office not confirm the Board was aware of the problems you claim your office was so active in interacting with Mid Central on? Why do you think the Mid Central Board, and the schools they contracted services with, should be held liable for the fraud & misappropriation that occurred, that your office was responsible for managing and which you did not advise the Board of? You claimed your office "trusted but verified." Why did your office not verify with the Mid Central Board? Is it because you were aware they were in fact NOT the deciding officials of Mid Central operations?
44. When asked how many Native American students went to college during the last 12 years of the program, you could only tell lawmakers that number was 285 for the most recent school year. How many of those 285 students went on to college specifically and primarily because of the GEAR UP program? Do we know how many of them would have gone to college if we had not spent any money on the GEAR UP program?
45. Absent any reliable results for the GEAR UP grant program for the first 6 years of the program, why did you approve the grants after you became Secretary of Education in 2011 absent any noted results?
46. Please explain the match dollars for Microsoft and why a lawsuit was filed.
47. How did you establish the value of the Microsoft software licenses used as a match?
48. What is the process the U.S. Department of Education follows regarding the acceptance of match?

Please submit your answers to Tim Flannery, Department of Legislative Audit, 427 South Chapelle, Pierre, SD, 57501 by August 21, 2017 so that the information can be sent to all Committee members in advance of the actual meeting date. The meeting is scheduled to begin at 8:00 a.m. on August 29, 2017.

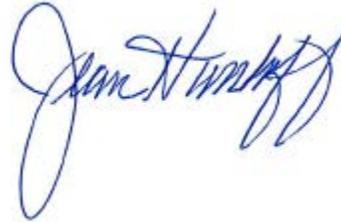
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If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Sincerely,

A handwritten signature in blue ink that reads "Deb Peters". The signature is written in a cursive style with a large initial "D".

Senator Deb Peters, Chair
Government Operations and Audit Committee

A handwritten signature in blue ink that reads "Jean Hunhoff". The signature is written in a cursive style with a large initial "J".

Representative Hunhoff, Vice-Chair
Government Operations and Audit Committee